and hospital facilities) by taking out insurance in a private company authorized to write workmen's compensation insurance, or in the State Compensation Insurance Fund, an insurer operated by the State of California. Inasmuch as most all employers avail themselves of the right to secure insurance, it follows that in most instances payment for physician's services to injured employees is made by an insurance company for and on behalf of the employer under an insurance contract by which the insurance company agrees to assume the employer's liability under the Workmen's Compensation Act in return for stated premiums. Hence, although the Workmen's Compensation Act imposes the liability for payment of physician's services upon employers, as a matter of actual practice such payment is made by the insurance carriers for the employers.

Effect of Workmen's Compensation Constitutional Provisions and Statutes on Practice of Medicine—Corporate Practice.—At this point it should be made clear that the Workmen's Compensation Act is a statutory exception to the general rule that a corporation may not engage in the practice of medicine or surgery. The people of California, through their Constitution and the Workmen's Compensation Act, have determined that for the purpose of industrial injuries only, it is competent for a corporation, *i. e.,* an employer and its insurance carrier, or both, to select physicians for third persons, *i. e.,* injured employees, and to pay for the professional services of the physicians so selected. This is the practice of medicine or surgery by corporations, since corporations control the payment for professional services rendered to others, but it is not in this instance unlawful because of express constitutional and statutory provisions. It is, of course, in all *other* instances unlawful.

Right of Physicians to Compensation Where Employee Treated Was Hired in Another State.—If a physician renders professional services to an injured employee, and the employee does not seek an award of compensation from the Industrial Accident Commission, the physician cannot commence a proceeding before the Commission for compensation for medical services unless the injured employee is also a party to the proceeding. (*Pacific Employers Ins. Co.* vs. *French,* 212 Cal. 139; *Independence Ind. Co.* vs. *Industrial Acc. Comm.* 2 Cal. (2nd) 397.)

The most difficult problems with regard to the Workmen's Compensation Act arise from the fact that present-day commercial and business enterprises are nation-wide and even world-wide, so that employees are often employed in one state and work in another state. When an employee is employed, say, in State A to work in State B, and is injured while in State B, a question at once arises as to which state, A or B, has jurisdiction under its Workmen's Compensation Law. This problem is extremely important to physicians, and may be illustrated by reviewing the case of *Pacific Employers' Ins. Co.* vs. *Industrial Acc. Commission,* 95 Cal. Dec. 107, decided by the Supreme Court of California on January 31, 1938. The facts were these: One Tator, a chemical engineer, was employed in Massachusetts by a business concern, and several years later was sent to a branch plant of his employer located in Oakland, California, for the purpose of solving, if possible, a technical problem confronting the Oakland plant. His presence in Oakland was considered temporary by both his employer and himself. While in Oakland he was injured and medical services were rendered to him by several physicians. The insurance company carrying Tator's employer's workmen's compensation insurance in California refused to pay any compensation or to pay the physicians, on the ground that Tator was a *Massachusetts* employee and, hence, was only entitled to receive compensation in *Massachusetts* from the Massachusett's insurance carrier of Tator's employer. If the insurance company's position had been sustained, it would have meant that Tator's physicians would have had to proceed in Massachusetts to collect, if possible, their compensation. The California Supreme Court, however, held that it would be obnoxious to the public policy of this State to deny persons who have been injured in this State, although residents of another state, the right to apply for compensation, when to do so might require physicians and hospitals to go to another state to collect charges for medical care and treatment given to such persons. It was, therefore, decided that Tator was entitled to compensation and that his physicians were entitled to be paid in California.

This decision is so important to the medical profession that, at the risk of repetition, portions of the court's opinion will be quoted:

Upon the principles which have been stated and applied in these cases, Mr. Tator cannot recover compensation in California unless this State has a governmental interest in the controversy superior to that of Massachusetts. At the time of his injury, Mr. Tator was a resident of Massachusetts. He was employed there, and was subject to the direction of officers of the employer there located. His salary was paid to him in that state, and he had come to California only on a specific errand for his employer. Under these circumstances the interest of California, like that of New Hampshire in the Clapper case, *supra,* is only "casual" unless there are other facts upon which a governmental interest may be based. It is urged that this interest may be found in the medical and hospital expenses which were incurred in this State and had not been paid at the time of the hearing.

The modern view that the cost of industrial injuries is properly a part of the expense of production underlies all workmen's compensation laws. (*Western Ind. Co.* vs. *Pillsbury,* 170 Cal. 686.) The public has a direct interest in the results of industrial accident. When the injured employee had only a right of action for damages, he too often became an object of charity. Even under present laws the public bears some part of the expense of such accidents in addition to the amount which is added to the cost of manufacture. The public, therefore, is vitally concerned to see that adequate medical care is furnished to those injured.

This court has said: "As a practical matter, injured employees as a class will receive better and more willing medical service if remuneration for such services from an employer or insurance carrier is assured to doctors and hospitals than in instances may arise in which, if an employee neglects to file a claim for compensation, after the services have been rendered, such doctors and hospitals may be required to look only to the injured employee for compensation. It should be borne in mind that the medical, surgical and hospital treatment which is intended to be assured to injured employees as one of the items of their compensation by the Act, will be more certain to be furnished if doctors and hospitals are assured of certain remuneration for their services." (*Independence Indem. Co.* vs. *Indus. Acc. Com.,* 2 Cal. (2nd) 397, 404.)

The public policy of California upon this question has been clearly and positively stated in the Constitution, the Workmen's Compensation Law which was enacted pursuant to it, and the decisions of this court. It would be obnoxious to that policy to deny persons who have been injured in this State the right to apply for compensation when to do so might require physicians and hospitals to go to another state to collect charges for medical care and treatment given to such persons. Under these circumstances the governmental policy of California weighs more heavily in the scale of decision than the law of Massachusetts, and the conflict in laws must be resolved in favor of the state where the injury occurred.

The award is affirmed.

SPECIAL ARTICLES

SOME LOS ANGELES COUNTY HOSPITAL PROBLEMS: COMMENT*

Most members of the Los Angeles County Medical Association are aware that during the week just passed the newspapers have carried a series of reports referring to the Los Angeles County Hospital, founded on an editorial in the February OFFICIAL JOURNAL of the California Medical Association (on page 73), which in turn was based on an article in that issue (on page 97), contributed by your speaker.

It may be assumed, therefore, that the subject upon which further comment will now be made is not entirely new.

Some of the special issues involved concern matters such as the following:

The types of patients who are admitted to the County Hospital.

The bills which are rendered to them, after they leave the institution.

* Read by George H. Kress, M.D., Los Angeles, at the general meeting of the Los Angeles County Medical Association, on February 17, 1938.

For other comment on this subject, see February issue of CALIFORNIA AND WESTERN MEDICINE, on pages 73 and 97, and in this issue, on page 156.

The nature and fairness or unfairness of the Los Angeles County Hospital's fee bill for hospitalization services.

The misrepresentation in the statements rendered, which give the impression that professional care, rather than hospitalization, is being charged for.

The fact that the bills and legal demands are rendered not only to near- (medical) indigents, but to proved indigents.

The blunt legal language used in the demands for repayment to the county rendered to indigents.

The system of making indigents, or near-indigents, sign promises to pay, and of making liens on insurance policies and other equities in any small properties of these poverty or near-poverty stricken persons.

The follow-up system used by the County's Collection Bureau, when it makes it demands for repayment, on the indigent, and medical- or near-indigent groups.

* * *

Our own attention was directed to all this about October last, when a laborer, who occasionally worked for me, showed a statement for $31 or so, sent to him to cover his young son's stay in the hospital.

This man cannot speak English, has a wife and three minor children, and in his jobs as a day laborer probably cannot average more than $70 a month. On this amount he must rent a house, clothe and feed five persons. In response to my inquiry, the officials wrote that nothing could be done in his case, and suggested that this hard-working, honest man should arrange to pay back one dollar a month.

To me such a request or demand (to the Mexican laborer, equivalent to a demand) did not seem a fair proposition from the great county of Los Angeles.

In discussing the matter with colleagues, my attention was called to other even more aggravating cases: one especially glaring example being that of the woman for whom a cesarean section had been necessary, and who received a bill from the county for $136.80 to cover a single operating room use in the Los Angeles County Hospital.

In the meantime, sensing that a system was in vogue in the Los Angeles County Hospital with which members of the medical profession would not be in sympathy were all the facts known, correspondence was started, as given in the exhibits of the article which appeared in the February issue of CALIFORNIA AND WESTERN MEDICINE.

In the limited time at our disposal this evening, it is not possible to go into details about all this. As was stated in the public press on Saturday last, February 12, a hearing was called by Supervisor Gordon McDonough, to which were invited representatives of the County's Charities, Legal and Auditing Departments, and also members of the Executive Medical Board of the attending staff. The newspapers had previously printed five topics which would be discussed. The County Counsel read the joint report prepared by his own and the County Hospital departments on the aforesaid topics. Anticipating what would happen, we also prepared and read the following report, and this I shall now offer again, because it comments on a few of the questions at issue.

* * *

[MEMORANDUM SUBMITTED ON FEBRUARY 14, 1938, BY DR. GEORGE H. KRESS, ON PRESS ITEMS CONCERNING THE LOS ANGELES COUNTY HOSPITAL, WHICH WERE PRINTED IN THE NEWSPAPERS OF SATURDAY, FEBRUARY 12, 1938

"Permit me to state at the outset that the twenty-page presentation of the Los Angeles County Hospital Collection Bureau problems, which is printed in the February issue of the OFFICIAL JOURNAL of the California Medical Association, practically outlines some of the major issues under consideration.

"I may add further, that no statements thus far appearing in the public press, presumably from interviews with county officials, lead me to think that any retraction should be made on what was printed in the State Medical Association's OFFICIAL JOURNAL.

"Allow me to say, also, that the Los Angeles County Hospital problems, to which attention has been called, are too big and altogether too important for possible solution at any single, or even a series of conferences such as this morning's session will probably be. What is needed, in the premises, are not merely opinions of interested parties, but rather the presentation of factual information secured after proper investigation by competent, impartial persons, to show whether the conditions complained of do, or do not exist.

"Let us take up, now, for consideration the five topics which Saturday's press announced would come before this February 14 conference body:

• • •

"Topic One: 'The Appellate Court decision in the Goodall vs. Brite case in Kern County, defining the county's responsibility relative to the operation of county hospitals and the fixing and collecting of fees.'

"Comment: The Kern County Hospital Appellate Court decision embodies, under item 8, its injunction provisions. None of the legal authorities of Los Angeles has given us thus far any specific references in the text of the Appellate Court decision which affirm that it is mandatory to send bills for board, room, and nursing (hospitalization services) to every indigent patient, and it is our own opinion and also that of friends in the legal profession that there is no mandatory legal authority for such bill-sending.

"Permit us, also, to call the attention of this conference group of county officials and attending staff representatives to the fact that we have with us this morning Mr. R. E. Heerman, present superintendent of the California Hospital of Los Angeles and a trustee of the Associated Hospitals of California, who was president of that organization when it appeared before the Fourth District Appellate Court on behalf of the respondents in the Kern County case. Also there is present Mr. Howard Burrell, who, as a 'friend of the court,' submitted the briefs on behalf of the Associated Hospitals of California. If this conference desires expert and legal opinion on hospital matters, why not give Mr. Heerman and Mr. Burrell the privilege of the floor and let them answer questions?

• • •

"Topic Two: 'Types of patients admitted at the General Hospital.'

"Comment: Any statement by the County Hospital authorities on this subject should be in detail and in writing, and should specifically comment on the hospitalization of:

1. Totally indigent citizens;
2. Partly or medical indigent persons;
3. Non-indigent patients; and also on
4. County employees; and on
5. Industrially injured citizens.

"The statement by the hospital authorities should be comprehensive and accurate, and indicate the approximate number of patients coming under each of the above groups, who were admitted during the last year or so.

"The admission requirements, likewise, as well as the types of prior or subsequent social service reports on applicants, and the manner in which the above classes of patients are tabulated in the County Collection Bureau, are matters worthy of meticulous study and report. No brief verbal statements concerning these matters will suffice.

• • •

"Topic Three: 'Comparison of charges for service with those of private hospitals.'

"Comment: In the Saturday press items, County Hospital Superintendent Gray is quoted as giving, as the estimate of himself and his associates, the figure of $6.39 for a private hospital ward bed, as compared with $3.81 per day for a ward bed in the County Hospital.

"In regard to the average ward rate of the accredited private hospitals of Los Angeles, why not find out, first, whether what is called the ward rate per day in the County Hospital includes all items of overhead which private hospitals must meet, such as:

"Interest on capital investments (Los Angeles County probably having about $20,000,000 of capital investment in the County Hospital.)

"Insurance (even though Los Angeles County insures itself, when costs are estimated that item should be included).

"Depreciation, etc.

"In other words, when ward rates are compared between the Los Angeles County Hospital and private hospitals,

it is important to learn whether the same thing is always being talked about. Otherwise, the conversation may merely be a discussion of misinformation. A very explicit statement in writing by the proper County officials is desirable on these points.

"Here, also, why not call in the local representatives of the Associated Hospitals of California and hear their opinions? These taxpaying hospitals do much charity work, and if their rights are being encroached upon because the County Hospital admits pay patients who are not legally entitled to County Hospital care, that matter should be carefully investigated. We feel certain that the Associated Hospitals of California will be happy to coöperate in these matters.

"Concerning Superintendent Gray's figure of $3.81 as the County Hospital ward rate per day, as noted in Saturday's press items, how is this to be reconciled with the fee table which his office recommended the Los Angeles Board of Supervisors to adopt on June 29, 1937, and which contained rates varying from $3.17 to $8.54 for a ward bed per day?

"The question also arises: If the cost in the County Hospital is only $3.81 per day per ward bed, by what legal right can bills be rendered for more than this amount, and, especially so, to indigent citizens? To ask recipients of public aid for more than actual costs would seem to be a violation of State law.

"In the fee tables at our command at the time of this writing, we note among private hospitals in Los Angeles the following daily ward rates: Children's Hospital, $4; St. Vincent's Hospital, $4; Queen of the Angels Hospital, two-bed room, $3.75 to $4; French Hospital, $3.75; California Hospital, children's ward $3.50, four-bed ward $4; Methodist Hospital, $3.75; Cedars of Lebanon Hospital, $4.50; Hospital of the Good Samaritan, industrial floor, two-bed room, $4 to $4.30 per day.

"In Saturday's press items, the Medical Director of the County Hospital, Doctor Berman, commented upon a patient who, in the article which appeared in the OFFICIAL JOURNAL of the California Medical Association, was given as a fee table example, and who received an itemized statement having as one single charge the following:

October 5, 1937. Operative—Cesarean section.....$136.80.

"In regard thereto, Doctor Berman was quoted as saying the patient was in the operating room for three hours and that 'in a private hospital her bill would have been more than $1,000.'

"If Doctor Berman was correctly quoted (and the item appeared in more than one newspaper), his statement must sound absurd to all physicians who are familiar with the charges for use of operating rooms (and operating-room expenses, not professional services of attending staff members, are the things for which the county of Los Angeles has a legal right to make charges).

"As a matter of fact, an average charge for the use of an operating room in a private hospital in Los Angeles for a minor operation would be $7.50 to $10, and for a major operation $15 to $20. If the operation lasts longer than one or two hours, then sometimes an extra charge of $1 to $2.50 or so per hour is made, so that if Medical Director Berman now states he meant 'professional services,' then since he, himself, has never been in private practice, it may be proper to inform him that if a physician charged $1,000 for an operation to an indigent person, and the matter were called to the attention of the Los Angeles County Medical Association (in case the doctor was a member), such a member would be haled before the constituted authorities for disciplinary action.

"Doctor Berman was also quoted as saying that the charge of $136.80, for a single session in the operating room, covered not only the cesarean section but several operations at the same time, etc. However, the bill stated the charge of $136.80 was for aid by the Department of Charities on date of October 5, 1937. It may be proper to add that Doctor Berman's method of describing an operation in terms of multiple operations is quite unusual, and it would be interesting to have him tell the medical members of the Executive Board more about these multiple operations and why they add materially to the overhead cost in the 'use of an operating room.'

"Topic Four: 'Explanation of the accounting system as established at the hospital by the County Auditor's staff.'

"Comment: Here also we believe an exact and comprehensive statement in writing would be quite in order; and appended thereto should be copies of all the different form follow-up letters sent to indigent and other patients, used during the last six months, as well as copies of memoranda or other instructions given to field representatives of the County Collection Bureau, who are sent out to interview former patients about payments due, etc.

• • •

"Topic Five: 'Collection policy of the County Charities Department in collecting for service rendered patients at the General Hospital.'

"Comment: What has been said under Topic Four applies here also."

• • •

"In conclusion, may we submit that one way to get at the bottom of this intricate matter would be to send out a questionnaire letter, properly phrased, to every one of the 32,469 former patients of the Los Angeles County General Hospital who received hospitalization care during the period July 1, 1937 to December 31, 1937, inclusive, the aforesaid bills totaling $2,366,779.30, or an estimated total of $4,733,588.60 for the year! From letters and telephone messages which have come to the Los Angeles County Medical Association during the last week, we believe such an approach would bring out some very illuminating facts and other information.

"Supervisor McDonough, permit me to remind you and the members of this morning's conference that in our correspondence with the County Hospital and Collection Bureau officials, as carried on during the last four months, we stated at the outset and subsequently, that it was our purpose to discuss this matter editorially, with information appended, in the OFFICIAL JOURNAL of the California Medical Association.

"More than five hundred members of the Los Angeles County Medical Association gratuitously give, each year, to the indigent sick, and taxpayers of the county, professional services having an estimated money value of more than two million dollars ($2,000,000). This humanitarian donation by the medical profession to the sick poor of Los Angeles County entitles its members to a careful hearing when they plead for kindly hospitalization care on behalf of indigent citizens, and also for a strict adherence to the State laws governing county hospitals."

* * *

The above concludes the written statement presented on Monday last. At the close of that meeting, Supervisor McDonough appointed a joint conference group of county officials and the Executive Medical Board of the staff to make a further study of the problems. What will result from the future meeting or meetings of this conference group we, of course, do not know.

To Summarize: In common with many other physicians familiar with the situation, we believe the printed articles already referred to were more than justified; and it is our further belief that some of the evils complained of will be remedied as a result of the publication.

Certainly, at least one good result has already been attained, namely, that of acquainting the more than two million citizens of Los Angeles County with the fact that the medical profession of Los Angeles annually donates to the poor who are sick, and to the taxpayers of our county, professional services having a money value of more than $2,000,000 (or about the same that the entire city raises for its yearly Community Chest goal). As a result of that publicity, we are in much better position to obtain a yearly printed report of the professional work of the staff, an effort which during the last ten years has failed of accomplishment.

The legal authorities of the county also acknowledged at the end of Monday's meeting that there were no specific statements in the Kern County Hospital-Appellate Court decision making it mandatory to send statements for hospitalization to indigent citizens.

Before the investigation is finished we hope to see an explicit set of rules promulgated by the county authorities that will clearly demark, in compliance with provisions laid down in the State law, the following:

The type of citizens who are eligible to admission and the type to be excluded in the Los Angeles County Hospital;

A more equitable fee table for County Hospital hospitalization charges, and the adoption of a system in which the patient or a legally responsible relative will be told, at the time when the patient is admitted, concerning the ward rates per day and possible accessory costs of hospitalization care.

Cessation of, shall we say, what is almost a dishonest practice of the County in giving the impression to these indigent sick persons that the bills are for professional care;

And to bring about also a somewhat kindlier follow-up system in the Hospital's bill-collecting methods.

Many other matters, each worthy of a separate text, might all be brought forward for consideration, and these may be discussed in the future.

945 Roosevelt Building,
727 West Seventh Street.

ADDENDA

LOS ANGELES COUNTY HOSPITAL: SOME SELF-EXPLANATORY LETTERS

In the February issue of CALIFORNIA AND WESTERN MEDICINE, on pages 73 and 97, certain procedures in vogue at the Los Angeles County Hospital for some time past were discussed and admission requirements and other matters criticized. Supplementary to last month's articles, and comment on page 156 in this issue, the following letters, presenting an interesting story, are taken from a large number received after the above referred to articles were commented upon in the daily papers:

* * *

[An Opinion of the Legal Counsel of the Associated Hospitals of California, with Special Reference to the Appellate Court Decision in the Kern County Hospital Case]

(COPY)

Los Angeles, California,
February 14, 1938.

To the Board of Supervisors
of Los Angeles County,
Los Angeles, California.

Gentlemen:

The undersigned are the attorneys for the Association of California Hospitals. This Association represents the interests of the private hospitals of the State of California.

We understand that there is pending before your honorable board, or a committee thereof, among other things relating to the Los Angeles General Hospital, two questions:

1. The type of patients admitted at the General Hospital; and

2. The matter of the accounting system involving billing and liens.

As to the first, the case of *Goodall* vs. *Brite*, 11 Cal. App. (2d) 540 (decided January 30, 1936),* establishes certain principles:

That there are three classes of persons who may claim the right to be admitted to the Hospital:

1. Indigents.

2. Persons of some means, but not sufficient to pay for maintenance in a private hospital after providing for those who legally claim support.

3. Emergency cases, regardless of the ability to pay.

The decision, of course, is definite that persons who are able to pay should not be admitted, and that due inquiry and investigation should be made to ascertain the facts. We assume that the Board of Hospital Management has conformed its practice to the principles laid down in this case. We also assume that the Board of Supervisors, in conformity with Sections 2576, 2600, and 2603 of the Welfare and Institutions Code, has established regulations in respect to the amount of property and the income, and the obtaining of liens upon property of patients falling within the second classification above set forth.

In regard to the matter of accounting, and particularly billing patients entering the County Hospital:

As to persons falling in Classes 2 and 3 above, no particular question is presented. Obviously, the hospital management should bill and attempt to collect from persons falling within these two classes. In regard to indigents having no present property, we find no requirement in the statute that they should be billed. We recognize, of course, that under Section 2603 the county has the right to recover a reasonable charge for services rendered if the person should at a future time acquire property. We assume that this section is the basis for the existing practice of billing indigents. As a practical matter, some considerable cost is involved in billing a class of patients from whom no return can be expected, and it would seem soon enough to go to the accounting and billing expense when the management has reason to believe that the patient has property or income from which payment can be made or collected. We do not believe that the taxpayers should sustain the cost of an expensive accounting and billing system in regard to all of the indigents, when as a matter of fact in only a very small percentage of cases will the county be able to collect anything. We believe it proper to consider the effect upon the needy if they are billed and pressed to pay. To emphasize this feature may engender the belief that the social function and service is secondary, and that collection is the primary concern.

1175 Subway Terminal Building,
Los Angeles, California.

Yours very truly,
MUSICK AND BURRELL.
By Howard Burrell.

* * *

[Another Legal Opinion, from a Lawyer Friend, in Which Comment Is Made on the Interpretation of the Appellate Court Decision in the Kern County Case]

(COPY)

"Dear Doctor:

"What is published as the decision or opinion of the court is made up of two parts: First, a statement by the court of the essential facts of the case as presented by the parties, with comments and reasoning of the court pertaining to them. Second, the judgment of the court. It is the judgment of the court that tells the parties what they must and what they must not do.

"In the present instance, the judgment of the court is found in the eighth section of the published decision, in two paragraphs, each beginning: 'It is therefore ordered, adjudged and decreed." The first of these paragraphs orders the defendants in this case to desist from admitting to and receiving as patients of the Kern General Hospital any person who, after due inquiry and investigation, is not found to be 'an indigent person' as defined in the decision, except under certain circumstances stated in the judgment, under which a non-indigent person may be admitted; or 'a dependent or partially dependent person *in case of emergency,* or who is found, after due inquiry and investigation, to be a person who is himself, or has a relative or relatives legally liable for his support, able to pay for and obtain proper and necessary medical or surgical or hospital care or treatment or services for himself elsewhere than in the county hospital' except as otherwise specified in the judgment. The judgment specifically defines certain classes of persons who should be admitted, including 'an indigent sick or dependent poor person' and 'a needy sick and dependent or partially dependent citizen in case of emergency.' I have underscored *'in case of emergency,'* not because it seems to have any specific applicability to the controversy in which you are now engaged, but to call your attention to it as being obscure in meaning in its present setting.

"Certainly, nothing in the judgment of the court even suggests to a reasonable person any obligation on the part of the defendants to collect from indigent persons or dependent or partially dependent persons, anything whatsoever.

* Editor's Note.—The full Appellate Court decision in the Kern County Hospital case is printed in full in CALIFORNIA AND WESTERN MEDICINE, February, 1938, on page 106.